IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE Mr. JUSTICE C.V.RAMULU**

**WRIT PETITION No. 303 of 1998**

Between:

K.Rajeswara Rao E.90582- Conductor,

C/o Erukonda Krishna Murthy, H.No.3-62-22/E,

Behind RTC Bus Stand,
Parkal, Warangal District.

**..... PETITIONER**

AND

1 The Industrial Tribunal-cum-Labour Court,

Rep by its Presiding Officer,
Warangal.
2 The Depot Manager, A.P.S.R.T.C.,
Bus Depot Parkal, Warangal District

**....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue, an order or direction or writ particularly one in the nature of Writ of Certiorari, or any other appropriate writ after calling for the records from the 1st respondent in the award of 1st respondent in I.D.Bo.262/93 and consequently direct the 2nd respondent to reinstate the petitioner into service with full back wages and other relief as fit and proper in the circumstances of the case.

**Counsel for the Petitioner: Mr. G. RAVIMOHAN**

**Counsel for the Respondent No.1: GP FOR LABOUR**

**Counsel for the respondent No.2: Mrs. P. RAJANI REDDY**

**The Court made the following :**

**ORAL ORDER:**

This Writ Petition is filed by the workman being aggrieved by the Award dated 1-11-1995 passed in I.D.No.262 of 1993 on the file of the Industrial Tribunal-cum-Labour Court, Warangal.

It is the case of the petitioner that he was appointed as a Conductor in the respondent-Corporation in the month of April,1980. While so, when he was conducting the bus No.AAZ 6562 on 21-6-1993 on route Garmillapally, a check was exercised at stage No.5/6 and the officials found certain cash and ticket irregularities. On the basis of the same, a charge sheet was issued to him enumerating the following charges:

1. For having issued ticket bearing No.049/910992 of Rs.4.25 denomination to a lady passengers, who boarded the bus at Challagarige and bound for Tirumalapur ex-stage 5 to 6 which was already sold and accounted for against stage No.1 (i.e. Parkal) in spite of collecting the requisite fare amount of Rs.1.50 at her boarding stage itself, which amounts to misconduct under Regulation No.28(xiii) of APSRTC Employees (Conduct0 Regulations,1963.

2. For having closed the tray Nos. of 1.50, 2.00, 2.75 and 3.50 denominations only, but failed to close the remaining tray numbers in the S.R.No.A1/8573732 dated 21-6-1993, which amounts to misconduct under Regulation No.28(xxxii) of APSRTC Employees (Conduct0 Regulations,1963."

Having not satisfied with the explanation submitted by the petitioner to the said charge sheet, the respondent-management conducted a detailed enquiry into the matter. The Enquiry Officer found him guilty of the charges. Basing on the Enquiry Officer's report, the disciplinary authority, after complying with the formalities,

removed him from service by an Order dated 16-11-1993. Aggrieved by the same, he filed an appeal, but the same was also dismissed. Having no other option, he raised an industrial dispute under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act') by filing a claim petition and the same was taken on file in I.D.No.262 of 1993 on the file of the Industrial Tribunal-cum-Labour Court, Warangal. The Tribunal, after a detailed consideration of the matter, came to the conclusion that though the charges are proved, the punishment of removal from service is disproportionate to that of the misconduct proved; however, directed the respondent-Corporation to appoint him as 'Conductor afresh' without continuity of service and without any back wages.

It is the case of the petitioner that once the Industrial Tribunal found that the punishment imposed is disproportionate to that of the misconduct proved, denying the continuity of service, back wages and attendant benefits is not in tune with the misconduct proved and in fact, the petitioner would be losing about 13 years of service rendered by him in the Corporation.

A detailed counter affidavit has been filed by the 2nd respondent denying the allegations made by the petitioner and it is *inter alia* asserted that the charges framed against the petitioner are that he reissued the tickets, which were already sold out and the same is nothing but a pre-meditated act on the part of the petitioner. Apart from this, the petitioner was also removed from service earlier for the similar misconduct, but he was reinstated into service pursuant to an Award passed by the Industrial Tribunal. Thus, it must be deemed that the petitioner is in the habit of committing such misconduct frequently. In fact, the Tribunal itself had shown lenience and granted relief of fresh appointment as a Conductor. The petitioner does not deserve any further relief as claimed by him. The Award passed by the Tribunal is just, proper and does not call for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the entire material made available on record including the impugned Award.

At the outset, I am of the opinion, the finding of the Tribunal that the petitioner was guilty of the charges cannot be found fault with. However, the Tribunal while holding that the punishment of removal from service was disproportionate to that of the

misconduct even after considering the earlier misconduct of the petitioner, has not properly exercised the powers vested in it under Section 11-A of the Act. The petitioner had put in 13 years of service prior to his removal from service on 16-11-1993. The petitioner is already 53 years as of now and if such a long service is denied, it will be a great financial loss at the time of his retirement. Therefore, in the facts and circumstances of the case, I am of the opinion that though the petitioner is appointed as a Conductor afresh in pursuance of the Award passed by the Labour Court, he is also entitled for counting the service rendered by him from the date of his appointment till the date of his reinstatement only for the purpose of computation of retiral benefits. He is not entitled for any attendant benefits, such as, notional increments etc, apart from the fact that he is also not entitled for any back wages. The impugned Award shall stand modified accordingly.

The Writ Petition is disposed of. No order as to costs.

09-8-2005

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